

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

BLUE SPIKE, LLC  
*Plaintiff,*

V.

TEXAS INSTRUMENTS, INC.  
*Defendants*

§ Civil Action No. 6:12-CV-499 MHS

## LEAD CASE

BLUE SPIKE, LLC,  
*Plaintiff,*

V.

AUDIBLE MAGIC CORPORATION,  
FACEBOOK, INC., MYSPACE, LLC,  
SPECIFIC MEDIA, LLC,  
PHOTOBUCKET.COM, INC.,  
DAILYMOTION, INC.,  
DAILYMOTION S.A., SOUNDCLOUD,  
INC., SOUNDCLOUD LTD., MYXER,  
INC., QLIPSO, INC., QLIPSO MEDIA  
NETWORKS LTD., YAP.TV, INC.,  
GOMISO, INC., IMESH, INC.,  
METACAFE, INC., BOODABEE  
TECHNOLOGIES, INC., TUNECORE,  
INC., ZEDGE HOLDINGS, INC.,  
BRIGHTCOVE INC.,  
COINCIDENT.TV, INC., ACCEDO  
BROADBAND NORTH AMERICA,  
INC., ACCEDO BROADBAND AB,  
AND MEDIAFIRE, LLC  
*Defendants.*

Civil Action No. 6:12-CV-576 MHS

## CONSOLIDATED CASE

BLUE SPIKE, LLC,  
*Plaintiff,*

V.

WIOFFER, LLC  
*Defendant.*

§ Civil Action No. 6:12-CV-570 MHS

## CONSOLIDATED CASE

**DECLARATION OF DAVID KAISER IN SUPPORT OF DEFENDANT AUDIBLE  
MAGIC CORPORATION’S AND ITS CUSTOMERS’ MOTION TO TRANSFER  
VENUE TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF CALIFORNIA UNDER 28 U.S.C. § 1404(a)**

I, David Kaiser, declare under penalty of perjury that the following is true and correct:

1. I am the CEO of Coincident.TV, Inc. I have personal knowledge of the facts set forth in this declaration, or access to Coincident.TV, Inc.'s ("Coincident") corporate information and records allowing me to confirm these facts. If called as a witness, I could testify competently to these facts under oath.
2. Coincident is headquartered in San Francisco, California.
3. Coincident has no operations, employees, or property in Texas.
4. Coincident regularly conducts business in the San Francisco Bay Area and Silicon Valley.
5. The Coincident products accused in the complaint in the above-referenced action incorporate Audible Magic technology accused in the complaint.
6. In 2012, Coincident entered into a reseller agreement with Audible Magic, located in Los Gatos, California, wherein Coincident was granted the right to market and resell Audible Magic's Content Identification Services. This is technology accused by Blue Spike in the instant action.
7. Coincident interacted with Audible Magic technical and business personnel in Los Gatos, California to obtain the reseller agreement

with Audible Magic. Coincident employees responsible for entering into the reseller agreement with Audible Magic are located in San Francisco, California.

8. Pursuant to the reseller agreement, prior to registering any prospective end user with Audible Magic's services, Coincident is required to notify Audible Magic, in Los Gatos, California, of the new prospective end user. Audible Magic retains the right to reject the registration of any prospective end user.
9. Coincident had no access to, and no ability to alter, Audible Magic's proprietary source code used to run Audible Magic's Content Identification Services.

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct based on my own personal knowledge.

Executed on May 1\_\_, 2013 in \_\_San Francisco CA\_\_\_\_\_.



A. J. Davis